

TOOLS FOR TOMORROW

Mankind has learned over the centuries that he can fashion a new and better tool to help him accomplish a new and more complex task. Be it a moon buggy, or a political apparatus, he dares to devise something new. Individually, we are not all that bold, as every inventor has had his doubters, from Benjamin Franklin to Orville Wright. The United States Constitution is not written of as the "Miracle of Philadelphia" because it was routine work.

When the authors of our 1889 Constitution gathered at convention, they sought the latest guidance from the experience of their fellow frontiersmen, and faced the future of Montana as they saw it. How was it then? Montana had 16 counties, 16 senators, 55 representatives, 100,000 people, 1 railroad, no highways, no university, a few schools, and a very simple life. Washington D.C. was weeks away. Change was gradual, and politics were totally unregulated. Rigid strictures and safeguards seemed the safer way, and in that philosophy the Constitution was formed. It was a slow, heavy and sometimes awkward tool.

In 1972 the same kinds of people convened again for the same purpose -- to devise a tool of government adequate for another eighty-year span. The convention fashioned a new and different tool, in preference to the old tool with perhaps a few minor changes. Now the voters must decide which tool to select, and are receiving all kinds of advice and guidance on how to make their choice.

We all know how easy it is to criticize and find fault with almost anything. Most of us shrug off criticism and follow our own ideas -- which is fine if we are well enough informed. But this is a complex subject on which most of us are not well informed, and we need help. We need conflicting points of view, that we may compare them and form our own analysis of the merits of the issue. Therefore, I welcome criticism of the proposed Constitution, and I follow it closely so that I may respond and so the issue may be framed more clearly for the voters. Did we, or did we not, fashion a new and better tool?

Criticism of the proposed Constitution comes in two forms: those derived from mistake as to what it contains, and those derive from basic disapproval of some specific provision. The mistakes are cleared easily -- the only problem is to uncover them. The disapprovals represent deliberate and studied judgments, and are a more serious matter.

The principal disapprovals seem to be:

- too expensive a Legislature
- too powerful an education board
- elimination of two-mill state levy limit
- elimination of debt limits
- weakening of the gas tax anti-diversion law
- the state-wide assessment plan

These have in common as their core the fear that taxes will be increased.

A first and immediate reaction is that the tax burden has steadily increased for the last thirty years, against which the old Constitution has proved no safeguard at all. No reason appears for expecting it to be any more successful in the future.

But there should be, and there are, more fundamental considerations by which to compare the merits of the old Constitution with the proposed new one, the old tool and the new.

Having noted conditions as they were in 1889, let us compare them with conditions today. It was 45 years before the Great Depression spawned the Montana income tax and the New Deal brought the beginnings of the welfare state concept. In the thirty years since World War II began, we have had war in over half of them. Taxes and federal influences have grown steadily through this period. In short, change has changed from gradual to almost unbelievable.

Much of this change is social, all is expensive. What is important to state government, and was thrust squarely upon the Convention, is the change in the relative rights and duties of the citizen and the state. Within a few historical moments the traditions of Montana government are shaken, and some are destroyed. Let us review them briefly:

In 1964, the one-man-one-vote rule was declared, and there were no more geography-styled legislatures like we had.

In 1970, local bond elections were no longer limited to property-tax payers, as they had been in Montana.

In 1969, residence requirements for welfare payments were eliminated, voiding Montana's one-year rule.

In 1970, residence requirements for voting in federal elections were reduced to thirty days, compared to Montana's one year.

In 1971, eighteen-year old voting rights were required in all elections, voiding Montana's Constitution.

On the near horizon are others with governmental overtones:

- the unconstitutionality of local property taxes for local schools
- federal-state revenue sharing from taxes
- federal value-added tax for school purposes

- expanding federal environmental regulation
- interstate highway completion
- fossil fuel exhaustion
- water shortage

Meeting in this context of accelerating change, how could the Convention set about its task? It had to face the facts as they are, and acknowledge that Montana has no power to evade, avoid or stop them. We cannot return to the comfortable days.

The three principal tools of state government are its legislature, its executive branch, and its schools where its future voters and officials are developed. Each tool must be fashioned to its new tasks, and yet each must be used in concert with the others. As the tasks grow heavier and the speeds faster, the tools must be adjustable in proportion. The out-dated and obsolete equipment in the shop must be removed entirely. Even if the new tools are more expensive, or use more power, yet if they can do better work at lesser cost, they are worth having.

So, the Convention fashioned new tools, and now let us examine them, critically, but all together. Great change is made in the legislature, for it is the people's first and greatest tool. It is the means they have to apply and use the power they have. It must be easy for them to use, and they must be able to see how it works, and what it produces. The old legislative tool seems not to have been satisfactory, for it has generated much public dissatisfaction and distrust. Be that as it may, the new tool can work until the job is finished, can utilize the research and assistance it needs for the purpose, and can do it all in open recorded proceedings where the former doubts and distrust can be dispelled. Elected from and responsible to the voters in their single-member districts, the legislators will have both new challenge and new opportunity in their public service. The voters must dedicate themselves to their citizen responsibility to express their will, and to demand its performance.

In the Executive tool, there is flexible direction and control by an elected team at the top. There is adequate information upon which to base decisions, for strict reporting and accountability on public funds are now required throughout the government. Lest this tool be too powerful, there is a safety measure -- in that the legislature is now in a position to use its authority throughout its term to safeguard the interests of the people. Power balances power, and authority is coupled to responsibility.

The problem with the old Education tool is that it has been woefully underpowered as well as too narrow for the broadening range of modern education. Given a new ability to centralize information, budgeting and long-range planning, and new expertise to research and to interpret, its power

will be equal to the task of producing a better product at a lesser cost. Education being the taxpayer's most expensive burden, even a very modest elimination of waste and duplication would bring substantial relief.

Criticism of the proposed Constitution focuses upon its revenue provisions, and the anticipation of increased taxes to fuel the costs of government. This touches a raw nerve, for clearly taxes are steadily increasing and people are unhappy about it. The old Constitution cannot prevent this, and neither can the proposed one. However, it does one new and comforting thing in this area, by assuring equality of burden through standard assessment and classification of property, and by assuring fair tax grievance procedures, which we have not had before.

As to debt limits, and mill levy limits, we must face the fact that these are rigidities which quickly become obsolete and lead to various forms of circumvention. The truth is that no tax is levied except by will of the people through their representatives, or by their vote. They do not need an artificial limit to help them maintain their discipline. With the strong likelihood that school financing will shift from local property taxing to state property taxing, any arbitrary limit is temporary and unreal. Montana has no power to prevent this shift, as it is based upon the equal protection clause of the federal Constitution. Therefore, if we cannot avoid it, let us be sure we bear it fairly and equally, and that we stay flexible enough to do our part as economically as changing times and technology may permit.

As to gas-tax diversion, we face the fact that the Interstate Highway is to be completed in perhaps five more years, that on current budgets all federal matching highway funds are more than covered, and that transportation needs are at least as great within the populated places as outside of them. It would be simply unrealistic to leave no room to accommodate to the shifting needs of transportation for the next eighty years. The modification of the anti-diversion law does no more than this. Since every voter and legislator is also a highway user there is only a hypothetical danger that highway needs will be ignored by using those funds to relieve the pressure on income or corporation license taxes, for example.

A word on the very versatile local government tool. The critics are complaining about property taxes, and it is property tax that finances local government. Economy in local government is in direct proportion to economy in property tax. The old Constitution preserves rigidity in local government function, while the proposed one offers the opportunity of self-tailored flexibility. It does this by two methods. One by the home rule plan, and two by the consolidation of office, facility, or function plan. Both of these

are optional to the voters of the locality -- they can have economy if they want it, and they can have as much or as little as they want. They are not committed to a standard form. This is the maximum in constitutional value, and deserves far more recognition and praise than it has been receiving.

I want to make brief mention of the added protection the proposed Constitution affords to the private citizen. It is usually very hard for him to deal with bureaucracy, and yet new laws keep imposing more duties and requirements on him. The Convention recognized the value and the importance of keeping the private individual from being submerged and smothered by his government. It, therefore, wrote new assurances that he could see, hear, know and participate in proper phases of the governmental processes at all levels. Without going into detail, these are alone a good reason to approve the proposed Constitution.

I hope to have made clear that the Convention faced a whole array of new and impending problems, considered a variety of solutions, and made vigorously debated choices. Imperfect themselves, the delegates could not have made always perfect decisions. Taken as a whole, I say they made good decisions and have produced a balanced and flexible structure of government. Implicit in their deliberation and decision is a strong faith in the Montana people, faith that given a new opportunity to know and participate in all parts of their own government, they will use sound judgment and be content with their results, or rapidly change them. This would be the American ideal.